TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, ~~1901~~ 1902.

No. ~~502~~ 269.

ED. H. REID, PLAINTIFF IN ERROR,

vs.

THE PEOPLE OF THE STATE OF COLORADO.

IN ERROR TO THE SUPREME COURT OF THE STATE OF COLORADO.

FILED MARCH 11, 1902.

(18,445.)

(18,445.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1901.

No. 592.

ED. H. REID, PLAINTIFF IN ERROR,

vs.

THE PEOPLE OF THE STATE OF COLORADO.

IN ERROR TO THE SUPREME COURT OF THE STATE OF COLORADO.

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1 *Transcript of the Record.*

In the Supreme Court of the State of Colorado.

ED. H. REID, Plaintiff in Error, *vs.* THE PEOPLE OF THE STATE OF COLORADO, Defendants in Error.		No. 4431. Petition for Writ of Error.

To the Honorable John Campbell, chief justice of said supreme court:

Comes now the above-named plaintiff in error, Ed. H. Reid, by his attorneys, Talbot, Denison and Wadley, and complains that in the record and proceedings, and also in the rendition of the judgment, in said suit in the supreme court of the State of Colorado, being the court of last resort of the said State in which a decision could be had in said suit, and in which a final judgment was rendered against your petitioner, on the third (3rd) day of February, A. D. 1902, and wherein your petitioner claims certain rights under the laws of the United States, and which said rights were denied your petitioner, all of which appears in the record and proceedings in said suit, manifest error hath appeared to the great damage of your petitioner, the said Ed. H. Reid, and your petitioner respectfully shows unto your honor:

First. That in the trial and determination of this cause, in the district court of Arapahoe county and State of Colorado, and also in the supreme court of the State of Colorado, there was necessarily involved a construction of several sections of the Constitution of the United States, and of the animal-industry act of Congress,
2 approved May 29th, 1884, and the rules and regulations thereunder prescribed by the Secretary of the Department of Agriculture of the United States, as will more fully appear by reference to the record in this cause, and also by reference to the decision of the supreme court of the State of Colorado, rendered on the said third (3rd) day of February, 1902.

Second. That the Federal questions involved in this cause, and the rights claimed by your petitioner and which have been denied him by the supreme court of the State of Colorado, are as follows, to wit:

1. The conviction of petitioner, Ed. H. Reid, in the district court, and its affirmance by the supreme court of the State of Colorado, was illegal, for the reason that the statute of the State of Colorado, approved March 21st, 1885, and under which he was prosecuted and convicted, is repugnant to the provision of the Constitution of the United States giving Congress power to regulate *Congress* among the States, being article 1, section 8, subdivision 3 of the Constitution of the United States, and likewise repugnant to the provision declaring that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States, being article 4, section 2 of the Constitution of the United States.

2. The Congress of the United States having passed an act establishing a Bureau of Animal Industry, Supplement to the Revised Statutes of the United States, volume 1, page 435, chapter 60, sections 3, 6 and 9, and the said Bureau of Animal Industry having promulgated its rules in pursuance of said act, in the regulation of the exportation from this country, and the importation into
3 this country, and the transportation of domestic animals from one State into another, the court at *nisi prius*, and the supreme court of the State of Colorado, erred in not declaring the act of the General Assembly of the State of Colorado, being Session Laws of 1885, page 343, under which this prosecution was had, to be null and void, as imposing unnecessary burdens and restrictions upon interstate commerce, in the following particulars, to wit:

a. As working an unnecessary detention of cattle already inspected by the Federal authorities, and to which a bill of health had already been issued by such Federal authorities.

b. In placing a burden upon interstate commerce by the imposition of fees upon the shipper for such additional State inspection.

c. As an unwarrantable and unnecessary interference with the transportation of cattle from one State into another; said transportation being within the exclusive jurisdiction of Congress under the laws of the United States.

Wherefore, your petitioner, having prepared and filed herewith his assignment of errors, prays for the allowance of a writ of error removing this cause to the Supreme Court of the United States, and that you sign the citation and fix the amount of the bond to be given by your petitioner, and for such other process as may seem meet and proper unto your honor.

TALBOT, DENISON & WADLEY,
Attorneys for Petitioner.

STATE OF COLORADO, }
County of Arapahoe, } *ss:*

Ed. H. Reid, being first duly sworn, on oath states that he
4 is the petitioner herein; that he has read the foregoing petition, and knows the contents thereof, and that the same is true.

ED. H. REID.

Subscribed and sworn to before me this 27th day of February, A. D. 1902.

[Seal Supreme Court, State of Colorado.]

HORACE G. CLARK,
Clerk of Supreme Court, Colorado,
By J. B. COOKE, *Deputy.*

5 [Endorsed:] No. 4431. In the supreme court of the State of Colorado. Ed. H. Reid, plaintiff in error, *vs.* The People of the State of Colorado, defendants in error. Petition for writ of error. Petition granted, writ of error allowed, citation signed, and bond of

plaintiff in error fixed at $500.00 on this 27th day of February, 1902. (Signed) John Campbell, chief justice. Filed in supreme court Feb. 28, 1092. Horace G. Clark, clerk.

6 In the Supreme Court of the State of Colorado.

Ed. H. Reid, Plaintiff in Error, *vs.* The People of the State of Colorado, Defendants in Error.	No. 4431. Order for Writ of Error.

To Robert Bailey, clerk of the circuit court of the United States for the district of Colorado, Greeting:

In the above-entitled cause, judgment was rendered against the above-named petitioner, Ed. H. Reid, on the third (3rd) day of February, A. D. 1902, and, in the hearing and determination of said cause, there were involved several Federal questions, and certain rights under the Constitution and statutes of the United States, and under an act for the establishment of a Bureau of Animal Industry, approved May 29th, 1884, and the rules and regulations thereof, were claimed by the said petitioner and denied by this court; and now, on this — day of February, A. D. 1902, the said Ed. H. Reid, petitioner, by his attorneys, Talbot, Denison and Wadley, has filed his petition, praying the allowance of a writ of error, removing this cause to the Supreme Court of the United States for further proceedings, and having duly considered said petition, it is considered that a writ of error should be allowed.

You are therefore commanded to prepare and forward a writ of error, wherein the said Ed. H. Reid is plaintiff in error, and
7 the said The People of the State of Colorado are defendants in error, and forward the same to me with all due haste.

Witness the Honorable John Campbell, chief justice of the supreme court of the State of Colorado, on this 28th day of February, A. D. 1902, and of the Independence of the United States, the one hundred and twenty-sixth, at Denver, in the State of Colorado.

JOHN CAMPBELL,
Chief Justice of the Supreme Court of the State of Colorado.

8 [Endorsed:] No. 4431. In the supreme court of the State of Colorado. Ed. H. Reid, plaintiff in error, *vs.* The People of the State of Colorado, defendants in error. Order for writ of error. Filed in supreme court Feb. 17, 1902. H. G. Clark, clerk.

9 *Writ of Error.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the chief justice and the honorable judges of the supreme court of the State of Colorado, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court of the State of Colorado, before you or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between Ed. H. Reid, plaintiff in error, and The People of the State of Colorado, defendants in error, wherein was drawn in question the validity of a treaty or statute of or an authority exercised under the United States, and the decision was against their validity, or wherein was drawn in question the validity of a statute of or any authority exercised under said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity, or wherein was drawn in question the construction of a clause of the Constitution or of a treaty or statute of or commission held under the United States and the decision was against the title, right, privilege or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute or commission, a manifest error hath happened, to the great damage of the said Ed. H. Reid, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given,

10 that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court, at Washington, within thirty (30) days from the date hereof, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, the 28th day of February, in the year of our Lord one thousand nine hundred and two.

[Seal United States Circuit Court, District of Colorado.]

ROBERT BAILEY,
Clerk of the Circuit Court of the United States for the District of Colorado,
By —— ——, *Deputy Clerk.*

Allowed by—
JOHN CAMPBELL,
Chief Justice of the Supreme Court of the State of Colorado.

11 [Endorsed:] No. 4431. In the supreme court of the State of Colorado. Ed. H. Reid, plaintiff in error, *vs.* The People of the State of Colorado, defendants in error. Writ of error. Filed in supreme court February 17th, 1902. H. G. Clark, clerk.

12 *Return on Writ of Error.*

UNITED STATES OF AMERICA, }
District of Colorado, State of Colorado, } *ss:*

In obedience to the command of the above and foregoing writ, I herewith transmit to the honorable the Supreme Court of the United States, a duly certified transcript of the record and proceedings in the above-entitled cause, together with all things concerning the same.

Seal Supreme Court, State of Colorado.

Witness my hand and the seal of the supreme court of the State of Colorado, at Denver, in said State, this 28th day of February, A. D. 1902.

HORACE G. CLARK,
Clerk of the Supreme Court of the State of Colorado,
By J. B. COOKE, *Deputy Clerk.*

13 [Endorsed:] No. 4431. In the supreme court of the State of Colorado. Ed. H. Reid, plaintiff in error, *vs.* The People of the State of Colorado, defendants in error. Return on writ of error. Filed in supreme court, February 17th, 1902. H. G. Clark, clerk.

14 *Citation.*

UNITED STATES OF AMERICA, *ss:*

To The People of the State of Colorado, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, District of Columbia, within thirty (30) days from the date hereof, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Colorado, wherein Ed. H. Reid is plaintiff in error, and The People of the State of Colorado are defendants in error, to show cause, if any there be, why the judgment rendered against said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable John Campbell, chief justice of the supreme court of the State of Colorado, this 28th day of February, in the year of our Lord one thousand nine hundred and two, and of the Independence of the United States, the one hundred and twenty-sixth year, at Denver, in the State of Colorado.

JOHN CAMPBELL,
Chief Justice of the Supreme Court of the State of Colorado.

A copy of the foregoing citation was delivered to me on the 28th day of February, A. D. 1902, and I hereby accept service thereof on behalf of the said defendants in error, The People of the State of Colorado.

CHAS. C. POST,
Attorney General of the State of Colorado.

15 [Endorsed:] No. 4431. In the supreme court of the State of Colorado. Ed. H. Reid, plaintiff in error, *vs.* The People of the State of Colorado, defendants in error. Citation. Filed in the supreme court, Feb. 17th, 1902. H. G. Clark, clerk.

16 In the Supreme Court of the United States.

ED. H. REID, Plaintiff in Error, *vs.* THE PEOPLE OF THE STATE OF Colorado, Defendants in Error.	Error to the Supreme Court of the State of Colorado.

Assignment of Errors.

Comes now the said Ed. H. Reid, plaintiff in error, by Talbot, Denison and Wadley, his attorneys, and says that the supreme court of the State of Colorado, in case No. 4431, wherein the said Ed. H. Reid was plaintiff in error, and the said The People of the State of Colorado were defendants in error, should be reversed, and judgment be entered in favor of the plaintiff in error, and that in the record and proceedings aforesaid there is manifest error in the following particulars, to wit:

First. The court erred in not deciding that the conviction of the plaintiff in error was illegal.

Second. The court erred in deciding that the statute of the State of Colorado, approved March 21, 1885, and under which plaintiff in error was prosecuted and convicted, is not repugnant to the provision of the Constitution of the United States giving Congress power to regulate commerce among the States, to wit, article 1, section 8, subdivision 3, of the Constitution of the United States,

17 as well as to the provision declaring that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States, to wit, article 4, section 2, of the Constitution of the United States.

Third. The Congress of the United States, having passed an act establishing a Bureau of Animal Industry, to wit, volume 1, 435, chapter 60, sections 3, 6 and 9, Supplement Revised Statutes of the United States, and said Bureau of Animal Industry, having promulgated its rules in pursuance of said act, in the regulation of the exportation from this country, and the importation into this country, and the transportation of domestic animals from one State into another, the court erred in not declaring the statute of the State of Colorado, approved March 21, 1885, under which this prosecution

was had, to be null and void, as imposing unnecessary burdens and restrictions upon interstate commerce.

Fourth. The court erred in failing and refusing to reverse the judgment of the district court of the county of Arapahoe, State of Colorado, and in not discharging plaintiff in error.

Wherefore, this petitioner prays, that the judgment aforesaid may be reversed, annulled, and altogether holden for naught, and that he be discharged, and that the statute of the State of Colorado be declared to be null and void as in conflict with the Constitution of the United States and with the act of Congress establishing a Bureau of Animal Industry, and of the rules and regulations promulgated by said bureau in pursuance thereof, and as being an unwarranted and unnecessary interference with interstate commerce.

TALBOT, DENISON AND WADLEY,
Attorneys for Plaintiff in Error.

18 [Endorsed:] No. 1431. In the Supreme Court of the United States of America. Ed. H. Reid, plaintiff in error, *vs.* The People of the State of Colorado, defendants in error. Assignment of errors. Filed in Supreme Court, Feb. 28, 1902. Horace G. Clark, clerk.

18½ *Bond.*

UNITED STATES OF AMERICA, }
District of Colorado. }

Know all men by these presents: that we, Ed. H. Reid, as principal, and John W. Springer, and Chas. F. Martin, as sureties, are held and firmly bound unto The People of the State of Colorado, in the full and just sum of five hundred ($500.00) dollars, to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents.

Sealed with our seals, and dated this 27th day of February, in the year of our Lord one thousand nine hundred and two.

Whereas, lately, at the January term, A. D. 1902, of the supreme court of Colorado, sitting at Denver, in a suit pending in said court between Ed. H. Reid, plaintiff in error, and The People of the State of Colorado, defendants in error, judgment was rendered against the said Ed. H. Reid, and the said Ed. H. Reid, having prayed and been allowed a writ of error to the supreme court of the State of Colorado, to reverse the judgment of the said supreme court, and a citation directed to the said Ed. H. Reid, citing and admonishing him to be and appear in the Supreme Court of the United States, at Washington, D. C., thirty (30) days from and after the date of the said citation,

Now, the condition of the above obligation is such, that if the

said Ed. H. Reid shall prosecute said appeal to effect and
18½ answer all damages and costs if he fail to make good his plea, then the above obligation to be void; else to remain in full force and virtue.

JOHN W. SPRINGER. [SEAL.]
CHAS. F. MARTIN. [SEAL.]
ED. H. REID. [SEAL.]

Sealed and delivered in the presence of—
JOHN B. COOKE.

Approved.
JOHN CAMPBELL,
Chief Justice.

18¾ [Endorsed:] No. 4431. In the Supreme Court of the United States of America. Ed. H. Reid, plaintiff in error, *vs.* The People of the State of Colorado, defendants in error. Bond on appeal. Filed in Supreme Court, Feb. 28, 1902. Horace G. Clark, clerk.

19 STATE OF COLORADO, } *ss:*
County of Arapahoe, }

In the District Court within and for said County.

THE PEOPLE OF THE STATE OF COLORADO, Plaintiff, } No. 14967.
versus
ED. H. REID, Defendant. }

Pleas in the district court of Arapahoe county, State of Colorado, in the fifth division thereof, before the Honorable John I. Mullins, judge of the second judicial district of the said State, at a term thereof begun and held at the court-house, in Denver, in said county, in the second Tuesday in April, it being the ninth day of April, A. D. one thousand nine hundred and one.

Present: Honorable John I. Mullins, judge of the district court of the second judicial district of the State of Colorado, Henry A. Lindsley, Esqr., district attorney of said district, Robert J. Jones, Esqr., sheriff of said county, Otis B. Spencer, Esqr., clerk of said court.

Be it remembered that heretofore and on, to wit, the 25th day of June, A. D. 1901 there was filed in the office of the clerk of said court the affidavit in words and figures following, to wit:

20 STATE OF COLORADO, }
County of Arapahoe. }

In the District Court.

THE PEOPLE OF THE STATE OF COLORADO, Plaintiffs, }
vs.
ED. H. REID, Defendant. }

George W. Means, a credible person of lawful age, being first duly sworn, on oath says that Ed H. Reid, on to wit the 20th day of June, in the year of our Lord nineteen hundred and one at the county of Arapahoe aforesaid, unlawfully did bring and drive, and cause to be brought and driven into the State of Colorado and into the county of Arapahoe thereof, between the first day of April, and the first day of November in said year eight hundred and eighty-two head of cattle from certain counties south of the thirty-sixth degree parallel of north latitude, to wit, the counties of Lubbock and Cochran, in the State of Texas, without said cattle having been held at some place, north of said parallel of latitude, for a period of at least ninety days, prior to their importation into said State of Colorado, and without said Ed H. Reid the person owning and having charge of said cattle having at any time procured from the State veterinary sanitary board, of the State of Colorado, a certificate or bill of health to the effect that said cattle were free from all infec-
21 tious or contagious diseases, and had not been exposed at any time within ninety days prior thereto, to any of said diseases but on the contrary, having refused and declined to procure or permit any one for him to procure such certificate or bill of health, and having refused and declined to pay or allow or permit any one for him to pay the expense of any inspection as by the act hereinafter referred to should be paid, all of said act- of said Ed H. Reid, being done without a compliance with and in violation of the provisions of section 2 of an act of the General Assembly of the State of Colorado, entitled: "An act to prevent the introduction of any infectious or contagious disease among the cattle and horses of this State." Approved March 21, 1885, and found at page 336 of the Session Laws of 1885, of said State of Colorado.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the people of the State of Colorado.

Affiant further says that he has personal knowledge that said offense was committed and that he is a competent witness to testify in said case.

Affiant further says that said defendant has not had a preliminary examination upon the foregoing charge.

GEORGE W. MEANS.

Subscribed and sworn to before me, this 26th day of June, A. D. 1901.

My commission expires March 9, 1904.

HENRY F. JOLLY,
Notary Public in and for Arapahoe County, Colorado.

[NOTARIAL SEAL.]

22 Said affidavit being endorsed in words and figures as follows; to wit:

14967. The People of the State of Colorado *versus* Ed H. Reid. Affidavit of Geo. W. Means. Filed in the district court, Arapahoe county, Colorado, June 26, 1901. Otis B. Spencer, clerk.

And thereafter and on to wit the 25th day of June A. D. 1901, there was filed in the office of said clerk of said court the information in words and figures following, to wit:

23 STATE OF COLORADO, } *ss:*
County of Arapahoe, }

In the District Court, April Term, 1901.

THE PEOPLE OF THE STATE OF COLORADO, Plaintiff, }
against } Information.
ED. H. REID, Defendant. }

Henry A. Lindsley, district attorney within and for the second judicial district of the State of Colorado, in the county of Arapahoe in the State aforesaid, in the name, and by the authority of the people of the State of Colorado, informs the court: that Ed H. Reid, on to wit the 20th day of June, in the year of our Lord nineteen hundred and one, at the county of Arapahoe aforesaid, unlawfully did bring and drive and cause to be brought and driven, into the State of Colorado, and into the county of Arapahoe thereof, between the first day of April, and the first day of November in said year, eight hundred and eighty-two head of cattle from certain counties south of the thirty-six-degree parallel of north latitude, to wit: the counties of Lubbock and Cochran, in the State of Texas, without said cattle having been held at some place, north of said parallel of latitude for a period of at least ninety days prior to their importation into said State of Colorado, and without said

24 Ed H. Reid, the person owning and having charge of said cattle having at any time procured from the State veterinary sanitary board of the State of Colorado, a certificate or bill of health to the effect that said cattle were free from all infectious or contagious diseases, and had not been exposed at any time within ninety days prior thereto, to any of said diseases; but on the contrary having refused and declined to procure or permit any one for him, to procure such certificate or bill of health and having refused and declined to pay or allow or permit any one for him to pay the expense of any inspection as by the act hereinafter referred to, should be paid.

All of said acts of said Ed H. Reid being done without a compliance with and in violation of the provisions of section 2 of an act of the General Assembly of the State of Colorado, entitled: "An act to prevent the introduction of any infectious or contagious disease among the cattle and horses of this State." Approved March 21, 1885, and found at page three hundred and thirty-six of the Session Laws of 1885 of said State of Colorado.

Contrary to the form of the statute in such case made and provided, and against the peace and dignity of the people of the State of Colorado.

HENRY A. LINDSLEY,
District Attorney.
By T. E. McINTYRE, *Deputy.*

25 Said information being endorsed in words and figures, as follows, to wit:

14967. In the district court. The People of the State of Colorado *vs.* Ed H. Reid. Information for bringing, driving and causing to be brought and driven, into the State of Colorado, cattle without complying with and in violation of an act of the General Assembly of the State of Colorado, entitled "An act to prevent the introduction of any infectious or contagious disease, among the cattle and horses of this State." Approved March 21, 1885. Filed in district court, Arapahoe county, Colorado, June 26th 1901. Otis B. Spencer, clerk. Witnesses for the people. Brad H. Dubois. Joseph W. Bowls, Littleton, George W. Means, district attorney's office.

26 And thereupon, on to wit the 26th day of June A. D. 1901, the following order, *inter alia*, was entered of record.

THE PEOPLE
vs.
ED H. REID. } 14967.

Bringing, driving, and causing to be brought and driven into the State of Colorado cattle, etc.

At this day, on motion of the district attorney, it is ordered by the court that a capias issue for the said defendant, returnable forthwith, which is accordingly done.

STATE OF COLORADO,
County of Arapahoe, } *ss:*

The People of the State of Colorado to the sheriff, coroner, or any constable of any county, Greeting:

We command you that you take the body of Ed H. Reid, if he shall be found in your county and safely him keep so that he be and appear before the district court of said county of Arapahoe, forthwith to answer unto a certain information, preferred against him in said court, for the crime of bringing, driving and causing to

be brought and driven into the State of Colorado without complying with and in violation of an act of the General Assembly of the State of Colorado, entitled "An act to prevent the introduc-
27 tion of any infectious or contagious disease among the cattle and horses of the State." Approved March 21, 1885.

And have you, then and there this writ with an endorsement thereon, as to the manner in which you shall have executed the same.

Witness, Otis B. Spencer, clerk of said court, and the seal thereof, at Denver, in the said county, this 26 day of June, A. D. 1901.

OTIS B. SPENCER, *Clerk*,
By JAMES A. CARMAN,
Deputy Clerk.

[District Court Seal.]

Said capias being endorsed in words and figures as follows, to wit:

No. 14967. Criminal capias. District court, Arapahoe county. The People of the State of Colorado *vs.* Ed H. Reid. State of Colorado, county of Arapahoe, *ss.* I have duly served the within by bringing the within named into court as I was herein commanded. Robert J. Jones, sheriff, by Michael Mahoney, dep. Filed in district court, Arapahoe county, Colo. Jul- 9, 1901. Otis B. Spencer, clerk.

28 And thereupon, on to wit the same day, the following orders *inter alia* were entered of record:

THE PEOPLE
vs. } 14967.
ED H. REID.

Bringing, driving, and causing to be brought and driven into the State of Colorado cattle, etc.

At this day, comes Ralph Talbot Esquire, and enters his appearance for and on behalf of the defendant herein.

THE PEOPLE
vs. } 14967.
ED H. REID.

Bringing, driving, and causing to be brought and driven into the State of Colorado cattle, etc.

At this day, the sheriff having returned the alias capias against Ed H. Reid, defendant, and the said defendant being brought into court it is ordered by the court that a copy of the information herein and a list of the present panel of petit jurors be given him, which is accordingly done.

29 THE PEOPLE } 14967.
vs.
ED H. REID. }

Bringing, driving, and causing to be brought and driven into the State of Colorado cattle, etc.

At this day comes Henry A. Lindsley, Esqr., district attorney, who prosecutes the pleas of The People, in this behalf, and the said defendant Ed H. Reid is brought into court, and thereupon the said defendant waived the reading of the said information, and says that he is not guilty in manner and form as in and by the said information he stands charged. And of this he puts himself upon the country, and The People do the like.

THE PEOPLE } 14967.
vs.
ED H. REID. }

Bringing, driving, and causing to be brought and driven into the State of Colorado cattle, etc.

At this day it is ordered by the court that this cause be set for trial on the 26th day of June A. D. 1901.

30 THE PEOPLE } 14967.
vs.
ED H. REID. }

Bringing, driving, and causing to be brought and driven into the State of Colorado cattle, etc.

At this day comes Henry A. Lindsley, Esqr., district attorney who prosecutes the pleas of The People in this behalf, and the said defendant Ed H. Reid is brought into court, and by Ralph Talbot, Esqr., his attorney, also comes, and thereupon comes a jury, to wit: David Crothers; Aaron Bollman; W. H. Ashworth; Sampson Howard; J. De Harport; A. Klein; S. Vinot; A. E. R. Lyons; W. A. Gunkle; James Power; G. K. Brandt; J. P. Larabee; twelve good and lawful men, and they are duly selected and tried, empaneled and sworn, to well and truly try, and true deliverance make between The People of the State of Colorado and Ed H. Reid, the said defendant, and a true verdict give according to the evidence.

And the said jurors having heard the evidence produced herein, as well on behalf of the said defendant, as of the said People, and the arguments of counsel, and being duly instructed by the court, retire to their room, in charge of two sworn bailiffs, to consider of their verdict herein.

31 THE PEOPLE } vs. } 14967.
ED H. REID. }

Bringing, driving, and causing to be brought and driven into the State of Colorado cattle, etc.

At this day comes Henry A. Lindsley, Esqr., district attorney, who prosecutes the pleas of The People in this behalf, and the said defendant Ed H. Reid, is brought into court, and by Ralph Talbot, Esqr., his attorney, also comes, and thereupon, comes again the said jurors, and on their oath say:

"We the jury find the defendant Ed H. Reid guilty of bringing driving and causing to be brought and driven into the State of Colorado, cattle without complying with, and in violation of, an act of the General Assembly of the State of Colorado, entitled 'An act to prevent the introduction of any infectious or contagious disease among the cattle and horses of this State.' Approved March 21st, 1885.

A. E. R. LYONS, *Foreman.*"

32 THE PEOPLE } vs. } 14967.
ED H. REID. }

Bringing, driving, and causing to be brought and driven into the State of Colorado cattle, etc.

At this day comes the said parties hereto, by their attorneys respectively, and thereupon this cause coming on to be heard upon the defendant's motion for a new trial, is argued by counsel, and the court being now sufficiently advised in the premises, doth deny said motion.

33 THE PEOPLE } vs. } 14967.
ED H. REID. }

Bringing, driving, and causing to be brought and driven into the State of Colorado cattle, etc.

At this day comes Henry A. Lindsey, Esqr., district attorney, who prosecutes the pleas of The People in this behalf, and the said prisoner Ed H. Reid is brought to the bar of the court, and it is enquired of him, if anything he hath to say why judgment of the law should not now be pronounced against him, and he nothing saith.

Whereupon, it is considered by the court that the said defendant Ed H. Reid, be confined in the common jail of Arapahoe county at hard labor for the full period of six months from this day and it is further considered by the court, that the said People *to* have and recover of and from the said defendant, the costs by it in this behalf, laid out and expended, to be taxed and have execution therefor.

And thereupon, the said prisoner is remanded to the custody of the sheriff.

34 STATE OF COLORADO, } ss:
County of Arapahoe, }

I, Otis B. Spencer, clerk of the district court, of Arapahoe county, State aforesaid, do hereby certify the above and foregoing to be a true, complete, and perfect transcript and copy of the proceedings had and entered of record in a certain cause in said court lately depending wherein The People of the State of Colorado is plaintiff and Ed H. Reid is defendant, as the same now remains on file and of record in this office.

Witness my hand and seal of said court, at the court-house in Denver, county and State aforesaid this 29th day of October, A. D. 1901.

[SEAL.]

OTIS B. SPENCER, *Clerk.*
W. H. NICE, *Deputy Clerk.*

35 In the District Court of the Second Judicial District, Arapahoe County.

THE PEOPLE OF THE STATE OF COLORADO, Plaintiff,
vs.
EDWARD H. REID, Defendant. } Bill of Exceptions.

Be it remembered, that on, to wit, Wednesday, June 26th, 1901, the same being a juridical day of the regular April term of the district court sitting within and for the county and State above mentioned, at which the following proceedings were had. Hon. Henry H. Lindsley, district attorney of the second judicial district appearing for The People, and Mr. Ralph Talbot, of Talbot, Denison & Wadley, appearing for the defendant.

Mr. LINDSLEY: If your honor please at this time, I would like to take up the case of The People *vs.* Edward H. Reid.

The COURT: Is the defendant ready for trial?

Mr. TALBOT: Yes, sir; the defendant is here in court.

The COURT: Has the defendant been arraigned?

Mr. LINDSLEY: No, sir. I will arraign him at this time.

Thereupon, the defendant was brought before the bar of the court and duly arraigned as follows:

36 Mr. LINDSLEY: Mr. Reid, you are charged with bringing, driving and causing to be brought and driven into the State of Colorado, certain cattle without complying with, and in violation of an act of the General Statutes of the State of Colorado, entitled: "An act to prevent the introduction of any infectious or contagious disease among the cattle and horses of this State:" what do you say to the charge?

Mr. REID: Not guilty as charged.

Mr. LINDSLEY: May the records show the defendant waives the service of a copy of this information?

Mr. TALBOT: I have received a copy of the information and we are ready for trial.

The COURT: The clerk may call the jury.

And thereupon, a jury, twelve good and lawful men, was sworn to try and determine the matters and things at issue and a true verdict returned.

And in support of the guilt or innocence of the defendant, The People produced the following testimony:

GEORGE MEANS, being first duly sworn, to testify the truth, the whole truth, and nothing but the truth, testified as follows on his—

Direct examination.

Questioned by Mr. LINDSLEY:

Q. Do you know the defendant?

A. Yes, sir; I have met the gentleman.

Q. Did you have a conversation with him?

A. Yes, sir.

37 Q. When and where?

A. I had a conversation with him in our office today, in Denver.

Q. Did you have a conversation in reference to this case?

A. Yes sir.

Q. In reference to his bringing these cattle from the State of Texas?

A. Yes sir.

Q. What did he say?

A. He told me that he had shipped the cattle from the counties of Lubbock and Cochran, in Texas, and had brought them in the cars into the State of Colorado, on his way to Wyoming, and that he never had a State inspection, and never complied with any of the statutes of Colorado to have the cattle examined.

Q. That is, never paid the expenses of the State inspection, or what is called the inspection fee?

A. That is what he told me.

Q. Did he say whether or not he had allowed the State board of sanitary inspection to inspect them, or whether or not he had procured from the State veterinary sanitary board of the State of Colorado, a certificate or bill of health to the effect that said cattle were free from all infectious or contagious diseases?

A. He said that the State board of sanitary inspection, through one of their inspectors, had inspected the cattle against his will and desire, but that he had not obtained from the board any certificate or bill of health whatsoever. But he said that he immediately theretofore had had the cattle inspected by a duly authorized

38 inspector of the Bureau of Animal Industry of the United States, at Hereford, in the State of Texas, and had obtained a certificate from him marked herein as Exhibit (B) to the effect that the same were free from any infectious or contagious disease; that the reason he could not get a certificate or bill of health from the State board of Colorado was, because he would not pay the expense of such inspection, and because he had opposed such inspection as unnecessary and without any warrant in law.

Q. Did he tell you whether he refused to have them inspected?
A. He said that he showed his United States certificate marked Exhibit (B) (folios 116–119) to the inspector and refused to have them inspected, and protested against a reinspection, and refused to pay any of the expenses of such inspection.
Q. Did he tell you that these cattle were brought from below the 36th parallel of north latitude?
A. Yes sir; and they had been kept there a long time.
Q. Did he say these counties of Lubbock and Cochran were below the 36th parallel of north latitude?
A. Yes, sir; and in the State of Texas.

Cross-examination.

By Mr. TALBOT:

Q. He stated, also, did he not, that he had not kept them above the 36th parallel of north latitude for ninety days, prior to their importation into Colorado?
A. Yes sir.
Q. And that he shipped them from these counties in Texas directly through into the State of Colorado?
39 A. Yes sir.
Q. And that they were billed for the State of Wyoming, as their ultimate destination?
A. Yes sir.

Redirect examination by the DISTRICT ATTORNEY:

Q. This occurred in this county and State?
A. Yes sir.
Q. What day did it happen?
A. On the 20th of June of this year.
Q. When were these cattle shipped up here?
A. Between the first day of April and the first day of November.
Q. Of 1901?
A. Yes sir.
Q. Got here on the 20th of June of this year, and were fed and watered at the Union stock yards at Denver?
A. Yes sir.
Q. In this county?
A. Yes sir.
Q. And defendant was arrested in Denver?
A. Yes sir.
Q. Mr. Means, did Mr. Reid tell you he was the owner of these cattle and had control of them?
A. Yes sir.
Q. Had control of them at the time they were brought in here?
A. Yes sir.
40 Q. And having charge of the cattle, that he refused to pay the expenses of the Colorado inspection?
A. Yes sir, he said that he refused to pay the fees demanded for their inspection by the inspector of the State of Colorado.

By mutual agreement Exhibits A, B, C, D and E are introduced in connection with Exhibit B (folios 116–119), and in order to explain the same, and show the situation.

EXHIBIT A.

United States Department of Agriculture.

(B. A. I. order No. 80.)

Regulations Concerning Cattle Transportation.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
WASHINGTON, D. C., *December* 10, 1900.

To managers and agents of railroads and transportation companies of the United States, stockmen, and others:

In accordance with section 7 of the act of Congress approved May 29, 1884, entitled "An act for the establishment of a Bureau of Animal Industry, to prevent the exportation of diseased cattle, and provide means for the suppression and extirpation of pleuro-pneumonia and other contagious diseases among domestic animals," and of the act of Congress approved May 25, 1900, making appropriation for the Department of Agriculture for the fiscal year ending June 30, 1901, you are hereby notified that a contagious and infectious disease known as splenetic, Southern or Texas fever exists among cattle in the following-described area:

41 1. All that country lying south, or below, a line beginning at the northwest corner of the State of California; thence east south and southeasterly along the boundary line of said State of California to the southeastern corner of said State; thence southerly along the western boundary line of Arizona to the southwest corner of Arizona; thence along the southern boundary lines of Arizona and New Mexico to the southeastern corner of New Mexico; thence northerly along the eastern boundary of New Mexico to the southern line of the State of Colorado; thence along the southern boundary lines of Colorado and Kansas to the southeastern corner of Kansas; thence southerly along the western boundary line of Missouri to the southwestern corner of Missouri; thence easterly along the southern boundary line of Missouri to the western boundary line of Dunklin county; thence southerly along the said western boundary to the southwestern corner of Dunklin county; thence easterly along the southern boundary line of Missouri to the Mississippi river; thence northerly along the Mississippi river to the northern boundary line of Tennessee at the northwest corner of Lake county; thence easterly along said boundary line to the northeast corner of Henry county, thence in a northerly direction along the boundary of Tennessee to the northwest corner of Stewart county; thence in an easterly direction along the northern boundary of Tennessee to the southwestern corner of Virginia; thence northeasterly along the western boundary line of Virginia to the northern-

most point of Virginia; thence southerly along the eastern boundary line of Virginia to the northeast corner of Virginia, where it joins the southeastern corner of Maryland, at the Atlantic ocean.

42 2. Whenever any State or Territory located above or below said quarantine line, as above designated, shall duly establish a different quarantine line, and obtain the necessary legislation to enforce said last-mentioned line strictly and completely within the boundaries of said State or Territory, and said last above mentioned line and the measures taken to enforce it are satisfactory to the Secretary of Agriculture, he may, by a special order, temporarily adopt said State or territorial line.

Said adoption will apply only to that portion of said line specified, and may cease at any time the Secretary may deem it best for the interests involved, and in no instance shall said modification exist longer than the period specified in said special order; and at the expiration of such time, said quarantine line shall revert without further order to the line first above described.

Whenever any State or Territory shall establish a quarantine line for above purposes differently located from the above-described line, and shall obtain by legislation the necessary laws to enforce the same completely and strictly, and shall desire a modification of the Federal quarantine line to agree with such State or territorial line, the proper authorities of such State or Territory shall forward to the Secretary of Agriculture a true map or description of such line, and a copy of the laws for enforcement of same, duly authenticated and certified.

3. From the first day of January, 1901, no cattle are to be transported from said area south, or below, said Federal quarantine line above described to any portion of the United States above—

43 north, east or west of the above-described line, except as hereinafter provided.

4. Cattle from said area may be transported by rail or boat for immediate slaughter, and when so transported the following regulations must be observed.

(*a.*) When any cattle in course of transportation from said area are unloaded above—north, east or west of—this line to be fed or watered, or for other purposes, said cattle shall be placed in pens or yards set apart for infected cattle, and no other cattle shall be admitted thereto.

(*b.*) On unloading said cattle at their points of destination chutes, alleyways, and pens, sufficiently isolated, shall be set apart to receive them, and no other cattle shall be admitted to said chutes, pens and alleyways; and the regulations relating to the movement of cattle from said area, prescribed by the cattle sanitary officers of the State where unloaded, shall be carefully observed. The cars or boats that have carried said stock shall be cleansed and disinfected as soon as possible after unloading and before they are again used to transport, store or shelter animals or merchandise.

(*c.*) All cars carrying cattle from said area shall bear printed placards, the letters of which shall be plain and not less than 1½

inches in height, to be affixed by the railroad company hauling the same, stating that said cars contain southern cattle; and each of the waybills, conductors' manifests, and bills of lading of said
44 shipments by cars or boats shall have a note plainly written or stamped upon its face with a similar statement. Whenever any cattle have come from said area and shall be reshipped from any point at which they have been unloaded to other points of destination the cars carrying said animals shall bear similar placards with like statements and the waybills, conductors' manifests, or bills of lading, be so stamped. At whatever point these cattle are unloaded they must be placed in separate pens to which no other cattle shall be admitted.

(*d.*) No boat having on board cattle from said district shall receive on board cattle from outside of said district. Cattle from said district shall not be received on board when destined to points outside of said district where proper facilities have not been provided for transferring the said cattle from the landing to the stock yards and slaughter-houses without passing over public highways unless permission for such passing is first obtained from the local authorities.

(*e.*) The cars and boats used to transport such animals, the chutes, alleyways and pens used during transportation and at points of destination shall be disinfected in the following manner:

Remove all litter and manure. This litter and manure may be disinfected by mixing it with lime or saturating it with five per cent. solution of one hundred per cent. carbolic acid; or if not disinfected, it may be stored where no cattle can come in contact with it during the period from February 1 to November 15 of each year.

45 Wash the cars and feeding and watering troughs with water until clean.

Saturate the entire interior surface of the cars and the fencing, troughs, and chutes of the pens with a mixture made of 1½ pounds of lime and one-quarter pound of 100 per cent. straw-colored carbolic acid to each gallon of water; or a solution made by dissolving four ounces of chloride of lime to each gallon of water may be used; or disinfect the cars with a jet of steam under a pressure of not less than fifty pounds to the square inch.

5. Cattle from the Republic of Mexico may be admitted into the United States, after inspection according to law, as follows:

Cattle free from splenetic or Texas fever, and from contact therewith during the three months preceding such inspection, and which have been grazed in a locality free from infection of such fever, may be admitted into any part of the United States. If destined to points in the non-infected area, a special permit must be obtained from an inspector of the Bureau of Animal Industry, said permit being issued according to the regulations of said bureau; the cattle for which said permit is issued must not be driven through the affected area, nor be unloaded in any part thereof except at such a point as may be duly designated by an order issued by this department; if shipped in infected cars, or unloaded in the infected area,

except as above stated, they will be subject to the regulations concerning infectious cattle.

6. Notice is hereby given that cattle infested with the *Boophilus bovis*, or southern cattle tick, disseminate the contagion of splenetic, Southern, or Texas fever, therefore cattle originating outside
46 of the district described by this order, or amendments thereof, and which are infested with *Boophilus bovis* ticks, shall be considered as infectious cattle and shall be subject to the rules and regulations governing the movement of southern cattle.

7. Stock-yard companies receiving cattle infested with said ticks shall place said cattle in the pens set aside for the use of southern cattle, and transportation companies are required to clean and disinfect all cars and boats which have contained the same, according to the requirements of this department.

8. Inspectors are instructed to see that disinfection is properly done, and to report instances of improper disinfection. It is expected that transportation and stock-yard companies will promptly put into operation the above methods.

All prior orders conflicting herewith are hereby revoked.

JAMES WILSON, *Secretary.*

(B. A. I. order No. 80, amendment No. 10.)

Regulations Concerning Cattle Transportation.

Feeding stations at Fort Worth and Baird, Texas; Bakersfield, California, and Salisbury, North Carolina.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
WASHINGTON, D. C., *January* 31, 1901.

It is hereby ordered, that cattle originating outside, north, east and west of the quarantine line as defined in Bureau of Animal Industry order No. 80 (December 10, 1900) or amendments thereto and which are to be transported by rail through the quaran-
47 tined district, which may be unloaded for rest, feed and water into uninfected pens set apart for such cattle at Union stock yards, Fort Worth and Bayard, Texas; Bakersfield, California; and at Salisbury, North Carolina, providing the cattle are free from southern cattle ticks and have not been unloaded at any other place within the quarantined district. They may, after unloading into said pens, be reloaded into the same cars from which unloaded, or into other cleaned and disinfected cars, and reshipped as uninfected cattle.

All prior orders conflicting herewith are hereby revoked.

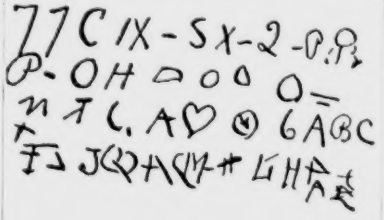
JAMES WILSON, *Secretary.*

(Amendments Nos. 1 to 9 were issued as B. A. I. orders Nos. 81 to 89.)

EXHIBIT B.

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF ANIMAL INDUSTRY, No. B, 41.
HEREFORD, TEXAS, *June* 18, 1901.

This is to certify that I have this day carefully inspected 882 head of neat cattle, marked, branded and classified as follows:

Number.	Age.	Kind.	Ranch brands—R. or L. side.	Shipper's brands.
882	2 yr.	Steers.		Either side.

48 and find them free from Texas, or splenetic fever infection (*Boophilus bovis*) or any other infectious or contagious disease.

The above-described 882 cattle are from the counties of Lubbock and Cochran, State of Texas, and no Texas fever infection is known to exist where they have been kept or on the trail over which they have passed.

To Moorcroft, Wyo.

ARTHUR C. HART,
Ass't Inspector, Bureau of Animal Industry.

Animals which have been inspected and certified by an inspector of the U. S. Bureau of Animal Industry, and are free from disease have the right to go into any State, and be sold for any purpose, without further inspection or the exaction of fees.

EXHIBIT C.

U. S. DEPARTMENT OF AGRICULTURE,
BUREAU OF ANIMAL INDUSTRY,
No. 5712. WASHINGTON, D. C., *December* 5, 1899.

Mr. Albert Dean, Kansas City, Kansas.

SIR: Referring to the letter of Mr. Taylor Riddle, secretary Live Stock Sanitary Commission of Kansas, of November 8, 1899, addressed to you, and which you forwarded under date of November 9, for my information, I would say that I have not issued instructions at an earlier date regarding the points raised by Mr. Riddle, as I desired to carefully examine the decisions of the Supreme Court

bearing upon the right of the States to levy inspection fees
49 or taxes upon articles of interstate commerce. Having gone over the decisions bearing upon this subject, I am of the opinion that the Supreme Court has definitely decided that such charges are unconstitutional, and that it is equally unconstitutional for the State to inspect cattle before such animals reach its borders, especially where Congress has already acted and there is a Federal inspection in operation.

While it is the desire of this department to co-operate with the live-stock sanitary boards of the different States, it would be clearly improper to go beyond legitimate co-operation and assist any State board in unjustly and illegally collecting fees from persons engaged in interstate commerce. For this reason you will please have the bureau inspectors inspect animals going from one State to another in all cases where they are offered to them for inspection or where they come under their observation and in case information is asked by the shippers as to their rights you will say to them that it is the opinion of this department that the collection of such fees by any State board is unconstitutional, and that animals which have been inspected and certified by the department inspectors have the right to go into any State and be sold without the exaction of further inspection or inspection fees. After such cattle have gone into a State and have been sold and have become a part of the property of the State, they are subject to State laws the same as animals native to that State.

While saying this, it should be understood that there is no desire on the part of the department to cause friction between its inspection service and the inspection service of any State, and that con-
50 sequently, you are to be conservative in your action and in your remarks concerning the State regulations. At the same time it is due to those engaged in the interstate shipment of cattle that the views of this department be known, and above all that the Federal inspectors take no part in forcing upon such shippers an inspection for which a local fee is demanded.

Very respectfully, D. E. SALMON,
Chief of Bureau.

EXHIBIT D.

Quarantine Proclamation.

Whereas, under the provisions of the law of this State, the State veterinary sanitary board has this day reported to me that certain contagious and infectious diseases exist in certain localities, and that there are conditions which render domestic animals from such localities liable to convey such disease, it is therefore ordered that the importation into this State of all live stock from said localities shall be prohibited, unless accompanied by a certificate of health given by the State veterinary sanitary board or its duly authorized agents, who shall examine and inspect all such live stock under the rules and regulations authorized by law and adopted by the State veterinary sanitary board hereto attached.

And I do hereby warn all corporations, persons and companies preceding the arrival at the boundary line of the State of Colorado, of all such cattle as come within the provisions of this proclamation, to give due and full notice thereof to the secretary of the
51 State veterinary sanitary board or the board's duly authorized inspectors.

In witness whereof, I have hereto set my hand and caused the seal of the State of Colorado to be affixed at Denver, Colorado, this sixth day of May, 1901.

JAMES B. ORMAN, *Governor.*

Attest: DAVID A. MILLS,
Secretary of State.

EXHIBIT E.

STATE OF COLORADO:

Cattle Quarantine Regulations for 1901.

By order of the State veterinary sanitary board.

Bradford H. Du Bois, president, Denver, Colorado.
J. W. Bowles, vice-president, Littleton, Colorado.
Edwin R. Stark, Colorado Springs, Colorado.
Dr. A. B. McCapes, secretary and State veterinary surgeon, the capitol, Denver, Colorado.

DENVER, COLO., *May* 4, 1901.

The following regulations will govern the admission of southern cattle into the State of Colorado during the year 1901, or until further notice:

First. All persons desirous of bringing cattle into or through the State of Colorado from the States of Texas and California and the Territory of Oklahoma, or from any other State or Territory, or portions of any other State or Territory, lying south of the thirty-six-parallel of north latitude, between the first day of April and the first day of November, must show by affidavit of two re-
52 sponsible parties whose reliability shall be certified to by the clerk of a county or district court, or by a duly qualified notary public.

(*a.*) Name and post-office address of the owner, consignor and consignee.

(*b.*) The brand or brands on all of said cattle.

(*c.*) The county or counties and State in which said cattle have been held during the preceding ninety days, and the total number demanding entry.

Second. Each railroad shipment or herd, if driven, must be accompanied by a certified copy of the original affidavit.

Third. Unless satisfactory proof is presented to the State veterinary sanitary board, or to one of its duly authorized inspectors, that said cattle have been held at least ninety days above a line drawn as below, known as Government fever line, such cattle will be deemed liable to convey Texas or splenetic fever, and will be refused ad-

mittance into or through Colorado, and any attempt to bring, drive, or cause to be brought or driven, such animals into the State will be a violation of the rules and regulations of this board, and will render any person or persons so violating or attempting to violate these regulations subject to the penalties prescribed by law for any infringement thereof, and such animals so brought into the State contrary to these regulations will be held in quarantine, at the risk and expense of the owner, for such period as may be deemed necessary by said board.

53 The above-mentioned fever line shall commence on the Pacific coast at the northern boundary line of Monterey county; thence easterly along the northern boundary line of Monterey and San Benito counties to the western boundary of Merced county; thence northerly, easterly and southerly along the western, northern and eastern boundary line of Merced county to the southeast corner thereof; thence northeasterly along the northern boundary of Madera county to the northeast corner thereof; thence southerly and easterly along the eastern boundary of Madera, Fresno and Tulare counties to the southeast corner of Tulare county; thence easterly along the southern boundary line of Inyo county to its intersection with the eastern boundary line of the State of California; thence southerly along the eastern boundary line of California to southeast corner of said State; thence southerly along the western boundary of Arizona to the southwest corner of said State; thence easterly along the southern boundary lines of Arizona and New Mexico to the intersection of the southern boundary of New Mexico with the international boundary line at the Rio Grande river; thence southeasterly along the said international boundary line to the southwest corner of the county of Pecos; thence following the western boundary of Pecos county to the southeast corner of Reeves county; thence following the boundary line between the counties of Pecos and Reeves to the Pecos river; thence southeasterly, following the Pecos river, to the northwest corner of Crockett county; thence east along the northern boundary of Crockett and Schleicher counties to the southeastern corner of Irion county; thence north along eastern boundary of Irion county to the

54 northeast corner of said county; thence north to the southern boundary of Coke county; thence west to the southwest corner of Coke county; thence north along the western boundary of Coke county to the southern boundary of Mitchell county; thence east to the southeastern corner of Mitchell county; thence north along the eastern boundary of Mitchell county to the northeast corner of said county; thence east along the southern boundaries of Fisher and Jones counties to the southeast corner of Jones county; thence north along the eastern boundary of Jones county to the northeast corner of said county; thence east along the southern boundary of Haskell county to the southeast corner of said county; thence north along the western boundary lines of Throckmorton and Baylor counties to the northwest corner of Baylor county; thence east along the southern boundary of Wilbarger county to the southeast corner of said county; thence north along the eastern

boundary of Wilbarger county to the Red river; thence continuing in a northwesterly direction along the course of said river and the northern boundary of Texas to the southeast corner of Greer county; thence northerly following the course of the north fork of the Red river to its intersection with the southern boundary line of Roger Mills county along the western boundary lines of the Apache, Comanche and Kiowa Indians reservations; thence east along the southern boundary lines of Roger Mills and Washita counties to the intersection with the boundary line of Wichita Indian reservation on the Washita river; thence north along the western boundary line of said reservation to its northwest corner at its intersection with the Canadian river in the county of G.; thence in a southeasterly direction along the course of
55 said river and the northern boundary of the Wichita Indian reservation to the northeast corner of said reservation; thence easterly along the southern boundary of Canadian county to the southeast corner of said county; thence north along the easterly boundary lines of Canadian and Kingfisher counties to the 36th parallel.

Fourth. It is, however, provided that cattle from below the above-mentioned fever line may enter this State by rail for immediate slaughter, provided a permit is first obtained from this board, or one of its duly authorized inspectors, to be granted upon the affidavit of the owner, consignor or consignee, or official of railway company transporting such cattle, that such cattle are intended only for immediate slaughter, and that the following regulations in respect to such cattle will be fulfilled.

(1.) When any cattle in course of transportation from said area are unloaded above, north or west of this line to be fed or watered, the places where said cattle are to be fed or watered shall be set apart and no other cattle shall be admitted thereto.

(2.) On unloading said cattle at their points of destination, pens shall be set apart to receive them, and no other cattle shall be admitted to said pens; and the regulations relating to the movement of Texas cattle prescribed by the cattle sanitary officers of the State where unloaded, shall be carefully observed. The cars that have carried said stock shall be cleansed and disinfected before they are again used to transport, store or shelter animals or merchandise.

56 (3.) All cars carrying cattle from said area shall bear placards stating that said cars contain southern cattle, and each of the waybills of said shipment shall have a note upon its face with a similar statement. Whenever any cattle have come from said area and shall be reshipped from any point at which they have been unloaded to other points of destination, the cars carrying said animals shall bear similar placards with like statements, and the waybills be so stamped. At whatever point these cattle are unloaded they must be placed in separate pens to which no other cattle shall be admitted.

(5.) The cars used to transport such animals, and the pens in which they are fed and watered, and the pens set apart for their re-

ception at points of destination, shall be disinfected in the following manner:

(*a*.) Remove all litter and manure This litter and manure may be disinfected by mixing it with lime or saturating it with a 5 per cent. solution of carbolic acid, or if not disinfected, it may be stored where no cattle can come in contact with it until after November 15.

(*b*.) Wash the cars and the feeding and watering troughs with water until clean.

(*c*.) Saturate the walls and floors of the cars and the fencing, troughs and chutes of the pens, with a solution made by dissolving four ounces of chloride of lime to each gallon of water. Or disinfect the cars with a jet of steam under a pressure of not less than 50 pounds to the square inch.

57 Fifth. All cattle from the States of Texas and California and the Territory of Oklahoma, or from any portions of any other State or Territory below the 36th parallel of north latitude desiring entrance into Colorado, either for grazing, feeding or immediate slaughter, between the 1st day of April and the 1st day of November whether for the purpose of remaining in said State or for the purpose of traveling through said State to other States or Territories, by rail or by trail, will be inspected before entering the State of Colorado, and if the above conditions have been fulfilled, a certificate of health will be granted, or in the case of slaughter cattle, a permit. Cattle will be inspected before loading, if sufficient notice is given to the State veterinary surgeon, the capitol, Denver, or to any of the duly authorized inspectors of the board who will, with their deputies, be stationed as follows: P. J. Towner, East Las Vegas, N. M. and Wm. Berryman, Amarillo, Texas; (otherwise cattle will be required to be unloaded at Folsom, on the line of the Union Pacific, Denver & Gulf railroad, or at Raton, on the Atchison, Topeka & Santa Fe railroad).

Sixth. Cattle coming into the State by trail will be required to cross the State line at or near the Point of Rocks, or at any other point to be agreed upon after conferring with the secretary of this board, and must be inspected before entering Colorado. Due notice of intention to cross the State line must be given to the secretary or to Inspector Berryman, Amarillo, Texas, or Inspector Towner, East Las Vegas, N. M.

58 Seventh. To defray the expense of inspection, a fee of one and one-half cents (1½) per head will be charged, payable before a certificate of health or a beef permit is issued.

Eighth. The fee for the inspection of cattle destined for Kansas will be two cents per head.

Ninth. Cattle from the Republic of Mexico shall be admitted into and through Colorado after having been inspected and certified to be free from southern cattle fever infection (*Boophilus bovis*) by the United States inspector of the Bureau of Animal Industry, and after having passed the State inspector of Colorado and receiving his bill of health.

Tenth. Any person or corporation who shall violate, disregard or

evade or attempt to violate, disregard or evade any provisions of the statutes governing stock sanitary inspection shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in the sum of not less than one hundred and not more than five thousand dollars ($5,000), or imprisonment in the county jail not less than three months nor more than two years, or by both such fine and imprisonment.

Blank affidavits will be furnished upon application to the secretary of the board, the capitol, Denver.

THE STATE VETERINARY SANITARY BOARD OF COLORADO.
B. H. DUBOIS, *President.*

HELENA, MONTANA, *May* 1, 1901.

Dr. A. B. McCapes, secretary, State veterinary surgeon:

All cattle holding certificates of health issued by the Colorado veterinary sanitary board will be admitted into the State of
59 Montana without further inspection.

M. E. KNOWLES,
State Veterinarian of Montana.

All cattle holding certificates of health issued by the Colorado veterinary sanitary board will be admitted into the State of Kansas without further inspection.

M. C. CAMPBELL,
Pres. Live Stock Sanitary Com. of Kansas.

Affidavit of Two Responsible Parties.

We, —— —— and —— ——, citizens of the county of —— and State of ——, do hereby certify that we know — head of cattle branded — and owned by —— —— whose post-office address is ——, county of —— State of —— to have been held during the ninety days preceding this date in the county of —— State of ——. The said cattle are about to be shipped from —— to —— consigned by —— —— to —— ——.

—— ——.
—— ——.

Certificate of Clerk or Notary Public.

I hereby certify that the parties whose signatures appear to the foregoing affidavit are personally known to me to be reputable and responsible citizens.

Dated —— — 190–.

—— ——.

60 Mr. LINDSLEY: This is all the evidence the State cares to introduce, and the State rests.

Mr. TALBOT: The defense will not introduce any further testimony.

Thereupon the court instructed the jury as follows:

GENTLEMEN OF THE JURY: The information in this case charges the defendant, Edward H. Reid, with having violated section 2 of an act entitled "An act to prevent the introduction of any infectious or contagious diseases among the cattle and horses of this State," which reads as follows:

"SECTION 2. It shall be unlawful for any person, association or corporation to bring or drive, or cause to be brought or driven into this State, any cattle or horses having an infectious or contagious disease, or which have been herded or brought into contact with any other cattle or horses laboring under such disease, at any time within ninety days prior to their importation into this State, or unless the person, association or corporation owning or having charge of such cattle or horses, shall procure from the State veterinary sanitary board a certificate or bill of health to the effect that said cattle or horses are free from all infectious or contagious diseases and have not been exposed at any time within ninety days prior thereto, to any of said diseases. The expense of any inspection connected herewith to be paid by the owner or owners of such cattle or horses."

61 You are instructed, if you believe from the evidence beyond a reasonable doubt, that this defendant did, on or about the 20th day of June, A. D. 1901, that is, between the first day of April, and the first day of November of said year, unlawfully bring or drive, or cause to be brought or driven, into the State of Colorado, and into the county of Arapahoe, the cattle as mentioned in the information or any part thereof, from certain counties south of the 36th parallel, north latitude, and that said cattle had not been held theretofore at some place north of said parallel of latitude, for a period of at least ninety days prior to the importation of said cattle into said State of Colorado, and that the said defendant had not procured from the State veterinary sanitary board of Colorado, a certificate or bill of health, to the effect that said cattle were free from infectious or contagious diseases, and to the effect that the same had not been exposed at any time within ninety days prior thereto to any of said diseases, and that then and there the said defendant did refuse and decline to procure or permit any one for him to procure such certificate or bill of health, and did refuse and decline to pay or allow, or suffer or permit any one for him to pay the expense of any inspection so as by the act prescribed, then and in that event, it is your duty to find the defendant guilty as charged in this information.

To the giving of which instruction, the defendant, by his counsel, then and there duly excepted upon the ground that the statute upon which such instruction is based is in conflict with the Constitution and laws of the United States, and null and void, both for that reason, and because it imposes unnecessary burdens and restrictions upon interstate commerce.

62 *Instructions One and Two as Prayed for by Defendant and Refused by the Court.*

No. I. "The court instructs the jury that it was unnecessary for the said defendant to procure from the State veterinary sanitary board of the State of Colorado, a certificate or bill of health, to the effect that said cattle were free from infectious or contagious diseases, and had not been exposed at any time within ninety days prior thereto, to any of said diseases, for the reason that said cattle had previously been then and there inspected, according to the statute of the United States in such case made and provided, and according to the rules and regulations pursuant to said statute, promulgated by the Department of Agriculture, by a duly authorized inspector of the Bureau of Animal Industry of the United States, stationed at Hereford, in the State of Texas, and had been duly certified by such United States inspector to be free from any infectious or contagious disease; and for the further reason that he, the said defendant, then and there exhibited and showed to the said State inspector of Colorado the said inspection certificate of the United States to said cattle."

No. II. "The court instructs the jury that the statute of the State of Colorado, approved March 21, 1885, and under which defendant is prosecuted, is repugnant to the provision of the Constitution of the United States giving Congress power to regulate commerce among the States, as well as to the provision declaring that the citi-

63 zens of each State shall be entitled to all the privileges and immunities of citizens in the several States, and hence, is null and void, as imposing unnecessary and unlawful burdens and restrictions upon interstate commerce, and you will therefore, return a verdict, finding defendant not guilty."

Which instructions bearing numbers one and two, were refused by the court, and to the refusal of the same, the defendant then and there excepted.

And thereupon, arguments of counsel being waived, the jury retired in charge of sworn bailiffs, and after deliberating upon their verdict, returned into court, finding defendant guilty as charged in said information.

To the finding of which verdict, defendant, by his counsel, then and there excepted.

And thereupon, defendant filed his motion for a new trial as follows, to wit:

Comes now the defendant herein, Edward H. Reid, by his attorneys, and moves the court to set aside the verdict herein rendered, and grant him a new trial because, he says that the verdict is contrary to and against the law, and because the court erred in giving the instruction for The People, and in refusing instructions one and two for defendant.

TALBOT, DENISON & WADLEY,
Attorneys for Defendant.

Whereupon the court overruled said motion; and to which ruling of the court the defendant then and there duly excepted.

And thereupon, the defendant, by his counsel, filed his motion in arrest of judgment as follows, to wit:

64 Comes now the said Edward H. Reid by his attorneys, after verdict of guilty and before judgment and sentence, and moves the court in arrest of judgment and sentence because, he says the conviction of defendant, Edward H. Reid, is illegal for the reason that the statute of the State of Colorado, approved March 21, 1885, under which he was prosecuted, as appears upon the face of the information, is repugnant to the provision of the Constitution of the United States giving Congress power to regulate commerce among the States, and the rules and regulations in pursuance thereof, as well as to the provision declaring that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.

TALBOT, DENISON & WADLEY,
Attorneys for Defendant.

Which said motion of Edward H. Reid, the above-named defendant, to arrest the judgment, came on immediately to be heard, and the court adjudging that the same should be refused, it was accordingly ordered and adjudged by the court that the said motion in arrest of judgment herein be, and the same is hereby refused, and in all things overruled.

To the action of the court in overruling the motion in arrest of judgment, the defendant, by his counsel, then and there excepted.

Whereupon, the district attorney asked to have sentence pronounced.

The COURT: Mr. Reid, do you know of any reason why sentence should not be pronounced at this time?

Mr. REID: No, except to state I do not think I have violated the law.

65 The COURT: In this case, the court imposes a sentence that you be confined for a period of six months in the county jail.

To which sentence and judgment of the court, the defendant then and there excepted.

And thereupon, counsel for defendant asked and was given sixty days' time in which to tender his bill of exceptions.

And inasmuch as the matters hereinbefore set forth do not fully appear of record, the defendant tenders this, his bill of exceptions, and prays the same may be signed and sealed by the judge of this court, and made a part of the record in this action, pursuant to the statute of the State of Colorado, in such case made and provided, which is accordingly done on this, the 31st day of November, A. D. 1901.

JOHN I. MULLINS, *Judge.*

Tendered this 20th day of July, 1901.

JOHN I. MULLINS, *Judge.*

This bill of exceptions by agreement of counsel may be signed.

HENRY A. LINDSLEY,
By T. E. McINTYRE, *Deputy*,
Attorney for the People.
TALBOT, DENISON & WADLEY,
Attorneys for Defendant.

66 In the Supreme Court of the State of Colorado, September Term, 1901.

ED. H. REID, Plaintiff in Error,
vs.
THE PEOPLE OF THE STATE OF COLORADO, Defendants in Error.
} Assignment of Errors.

Plaintiff in error says there is manifest error in the judgment and proceedings in this case in this, to wit:

1. The court erred in giving the instruction for The People.
2. The court erred in refusing the instruction, marked No. one, prayed for by defendant.
3. The court erred in refusing the instruction, marked No. two, prayed for by defendent.
4. The court erred in refusing to grant the motion for a new trial, interposed by defendent.
5. The court erred in refusing to — defendant's motion in arrest of judgment, and in overruling the same.
6. The court erred in rendering judgment upon the verdict.
7. The court erred in not instructing the jury that the statute of the State of Colorado, approved March 21, 1885, and under which the defendant was prosecuted and convicted, was repugnant to the provisions of the Constitution of the United States, giving Congress power to regulate commerce among the States, and to the provision declaring that the citizens of each State should be entitled to all the privileges and immunities of citizens in the several States.

67 For which errors, plaintiff in error prays that the judgment be, in all things, reversed.

TALBOT, DENISON & WADLEY,
Attorneys for Plaintiff in Error.

Said transcript of record being endorsed in words and figures as follows, to wit:

No. 4431. In supreme court State of Colorado. Ed. H. Reid, plaintiff in error, *vs.* The People, &c., defendant- in error. Transcript of record, bill of exceptions, and assignment of errors. Filed in supreme court this 9th day of Nov. 1901. H. G. Clark, clerk.

68 In the Supreme Court of the State of Colorado, January Term, 1902.

At this 3d day of February, 1902, this cause coming on to be heard, as well upon the transcript of proceedings and judgment had in said district court, in and for the county of Arapahoe, as also

upon the matters assigned for error herein, and the same having been heretofore argued by counsel in their written briefs, and submitted to the consideration and judgment of the court, and it appearing to the court that there is no error in the proceedings and judgment aforesaid of said district court, it is therefore considered and adjudged by the court that the judgment aforesaid of said district court be, and the same is, hereby affirmed and stand in full force and effect, and that the cause be remanded to said district court for such other and further proceedings, according to law, as shall be necessary to the final execution of the judgment of said district court in the cause, notwithstanding the said writ of error.

I, Horace G. Clark, clerk of the supreme court of the State of Colorado, do hereby certify that the foregoing is a true copy of an original judgment entered in the above-entitled cause, on February 3d A. D. 1902, and now remaining of record at my office.

Witness my hand, and the seal of the court, affixed at my office, in the city of Denver this 28th day of February, A. D. 1902.

[SEAL OF COURT.]

HORACE G. CLARK, *Clerk*,
By J. B. COOKE, *Deputy*.

69 And thereupon, and on to wit, February 3d, 1902, the following opinion was handed down by the supreme court:

Said certified copy of judgment being endorsed in words and figures as follows, to wit:

No. 4431. In the supreme court of the State of Colorado. Ed. H. Reid, plaintiff in error, *vs.* The People of the State of Colorado, defendant in error. Certified copy of judgment. Filed in supreme court Feb. 28, 1902, Horace G. Clark, clerk.

70

ED. H. REID, Plaintiff in Error, *v.* THE PEOPLE OF THE STATE OF COLORADO, Defendant in Error.	No. 4431.

Error to the district court of Arapahoe county.

Chief Justice Campbell delivered the opinion of the court.

The plaintiff in error (defendant below) was convicted and sentenced to the county jail for six months for violating the provisions of section 2 of an act of the General Assembly of Colorado entitled, "An act to prevent the introduction of any infectious or contagious disease among the cattle and horses of this State," approved March 21, 1885. Session Laws 1885, 335. It reads:

"It shall be unlawful for any person, association or corporation to bring or drive, or cause to be brought or driven, into this State, between the first day of April and the first day of November, any cattle or horses from a State, Territory or county, south of the 36° parallel of north latitude, unless said cattle or horses have been held at some place north of the said parallel of latitude for a period of at

least ninety days prior to their importation into this State, or unless the person, association or corporation, owning or having charge of such cattle or horses, shall procure from the State veterinary sanitary board a certificate, or bill of health, to the effect that said cattle or horses are free from all infectious or contagious diseases, and have not been exposed, at any time within ninety days prior thereto, to any of said diseases. The expense of any inspection connected herewith to be paid by the owner or owners of such cattle or horses."

There is no dispute about the facts. The defendant, as charged in the information, on the 20th of June 1901 caused to be brought into the county of Arapahoe and State of Colorado 882 head
71 of cattle from the counties of Lubbock and Cochran in the State of Texas, which are south of the so-called quarantine line fixed by the act, without having held the cattle at some place north of said line for a period of at least ninety days prior to their importation into this State, and also without having procured from any officer or agent of the State veterinary sanitary board of the State of Colorado a certificate, or bill of health, such as is contemplated by the statute.

The sole question is one of law, and that is, whether this act, or, more accurately speaking, the section upon which the information is founded, is in violation of subdivision 3 of section 8 of article 1,—the commercial clause,—or of subdivision 1 of section 2 of article 4,—equal privilege of citizens' clause,—or of subdivision 2 of section 10 of article 1,—the impost-duty clause,—of the Constitution of the United States, or of the animal-industry act of Congress, approved May 29, 1884, and the rules and regulations thereunder prescribed by the Secretary of Agriculture.

Not the only object of the act of Congress referred to, yet unquestionably one of its chief aims, is the extirpation of pleuro-pneumonia and other contagious, infectious and communicable diseases of cattle. By section 3 it is made the duty of the Secretary of Agriculture to prepare such rules and regulations as he deems necessary for the speedy and effectual accomplishment of that general object. But neither exclusive regulation of the subject-matter is assumed by Congress, nor entire responsibility for the enforcement of the act cast upon the Secretary. Upon the contrary, he was expressly directed to certify such rules and regulations to the executive authorities
72 of each State and Territory, and invite them to co-operate in the execution of the act.

Section 6 prohibits absolutely the transportation by rail or boat from one State or Territory to another of any live stock affected with any contagious, infectious or communicable disease, and especially the disease known as pleuro-pneumonia, and all persons are prohibited from transporting by private conveyance or driving on foot from one State or Territory to another State or Territory any live stock, knowing them to be affected with any such disease; but there is a proviso that splenetic or Texas fever shall not be considered as within the prohibition of the act as to cattle being transported by rail to market for slaughter when the same are unloaded only to be

fed and watered in lots on the way thereto. Supp. to Rev. Stats. U. S., vol. 1, p. 435.

On the 10th of December 1900 the Secretary of Agriculture, acting under the delegation of power thus conferred, promulgated rules and regulations concerning the transportation of cattle, and therein notified all transportation companies and stock-owners and others interested that a contagious and infectious disease known as splenetic fever existed among cattle in a certain area in the United States, which includes the counties of Lubbock and Cochran in the State of Texas. Clause 3 of these regulations provides that from and after January 1, 1901, no cattle shall be transported from the area south of the Federal quarantine line therein fixed to any portion of the United States north or above the same, except as therein allowed. However, it permits the transportation by rail or boat only of cattle for immediate slaughter, and not otherwise, upon full compliance by the shipper with the specific rules governing the same.

73 On May 4, 1901, the State veterinary sanitary board of Colorado proclaimed substantially the same regulations, adopted the same quarantine line, and required a certificate or bill of health from a State inspector before it was lawful to ship cattle through, or import them into, this State. And on the 6th of May, the governor of Colorado, upon representation of the board that contagious or infectious diseases existed in the places specified in the order of the Secretary of Agriculture, issued his proclamation prohibiting the importation into the State of cattle from such affected localities, without obtaining a certificate from the State board of a bill of health.

The regulations of the Secretary, as does the act under which they were issued, expressly recognize that the different States and Territories might establish the same, or a different, quarantine line, and that appropriate legislation of the different States and Territories of the Union might be passed to enforce within their respective boundaries the Federal regulations as well as their own, provided the latter were satisfactory to the Secretary of Agriculture, and not in conflict with those prescribed by the national authority. It was further contemplated that if a quarantine line should be adopted by any State different from that established under the act of Congress, a modification of the latter might be had, if the Secretary deemed it advisable.

On the 18th of June, 1901, when these cattle were shipped, the foregoing regulations of the two governments were in force. The defendant then obtained from the local inspector of the Bureau of Animal Industry at Hereford, Texas, apparently the point of shipment, a certificate that the stock were free from all infectious

74 and contagious disease, and that no Texas fever infection was known to exist where they had been kept, or on the trail over which they passed. Attached to this certificate and below the officer's signature, was a statement that animals which had been inspected and certified, as these were, by an inspector of the United States Bureau of Animal Industry as free from disease, have the

right to go into any State without further inspection, or the exaction of additional fees for the same.

When, two days later, they reached the south boundary line of Colorado, the cattle were inspected by an agent of the State veterinary board of Colorado—against protest of plaintiff in error—but no certificate was furnished to him, because he declined to pay the fee charged to cover the cost of inspection which was required by the specific regulations of the board.

Neither in the act of Congress nor in the rules of the Secretary of Agriculture is the sweep, extent or limit defined of certificates issued by the Bureau of Animal Industry. But it appears from a letter in the record written by the chief inspector of the national bureau to one of his subordinates that it was incompetent for a State to charge or collect inspection fees because the same constituted a regulation of interstate commerce, and the efficacy of a certificate of inspection given by one of its officers made unnecessary a certificate from the State authorities. While, of course, due consideration must be given to this interpretation, which the chief inspector says is his conclusion from decisions of the Federal Supreme Court, yet that interpretation is not binding upon the courts till that supreme authority puts the stamp of its approval upon it.

75 It is the contention of plaintiff in error, as to which the Attorney General takes issue, that our statute is a regulation of interstate commerce, because the State inspection fee and the delay in transit incident to such inspection necessarily operate as a burden upon that commerce. And while he is disposed to concede that, in the absence of action by Congress the State statute might stand, yet since, as he insists, Congress, has taken upon itself the entire responsibility of suppressing diseases among domestic live stock, the congressional act, in which authority over the subject-matter is exercised, constitutes a regulation of interstate commerce, and therefore State legislation covering the same matter must give way.

To our minds it is clear that the plain intention of Congress was that national and State governments should work together in preventing the spread of communicable diseases among domestic live stock, and that neither act is, nor was it intended to be, a regulation of interstate commerce, except possibly indirectly, but primarily each is merely a quarantine or inspection law.

For the purposes of this opinion it may be conceded that, if Congress should assume to itself exclusive jurisdiction over the subjects of quarantine and inspection, and, in pursuance of that design, should pass a general law intended to apply uniformly throughout all portions of the United States and to supplant all State statutes upon the same subject, State laws having the same object in view must give way,—at least, so far as there is any inconsistency between them. But where Congress has not assumed to itself complete control, and especially where it has invited the aid and

76 co-operation of the States, regulations prescribed both by it and the States may be enforced, at least so far as they harmonize,

and compliance with both must be made, though the subject-matter of the legislation be precisely the same.

Unquestionably, quarantine and inspection laws of a State having for their object the health of its citizens, or the prevention or suppression of disease among its domestic live stock, is within the province of State legislation. It comes within the scope of the general police power which the States have never surrendered. While it is true that, under the guise of exerting its police power, the State may not go beyond what is necessary for the protection of its citizens and their property, or to such length as to interfere with, or obstruct legislation of Congress calculated to regulate interstate commerce, or infringe upon any of the sovereign powers entrusted to Congress, yet, if it keeps within the scope of its authority and prescribes regulations which are reasonably necessary to further the legitimate object aimed at, its acts may be upheld.

The fee for inspecting cattle prescribed by the State veterinary board is only sufficient to cover the cost of inspection and no greater, and the regulations which have been made by the officials of the State are such only as are reasonably necessary to prevent the dissemination of infectious and contagious diseases among domestic live stock. The certificate, or bill of health, issued by the agent of the Bureau of Animal Industry at Hereford, Texas, did not do away with the necessity of its holder to obtain the certificate from the officer of our State veterinary board before he brought his cattle into this State. Hereford is several hundred miles from the Colorado border, and two days elapsed after obtaining the certificate there before the cattle reached that line. It may be that those cattle in the meantime
77 had passed through infected districts, or had become affected with some infectious or contagious disease. But we do not place our decision that our law is valid on what has been done under it. The practical and necessary operation of the act in its enforcement according to its provisions furnishes the true test; that is, what may be, not what has been, done under it. The requirement that a certificate should be obtained from our veterinary board was clearly authorized by the act of Congress and the regulations of the Secretary of Agriculture. In neither was there any declaration that the State might not exact it, and it would be practically impossible for the State to co-operate with the national authorities in the enforcement of the act of Congress without prescribing some such regulations as these. Indeed, it would be difficult to conceive of any effective co-operation on the part of the State except in some such way as our executive authorities have adopted; and power to them to assist the Federal authorities can be conferred only by the General Assembly.

The precise question before us has not been decided by the Supreme Court of the United States, but upon principle we think it is clear that the section of our act in question and the regulations made in pursuance thereof are in entire harmony with national legislation, and not in conflict with any provision of the Federal Constitution. Plaintiff in error cites a number of cases in support of his contention, some of which we proceed briefly to consider.

In *Gulf, Colo. &c. R'y v. Hefley*, 158 U. S. 98, it was held that when a Federal and a State statute operate on the same subject-matter and prescribe different rules concerning it, and the Federal statute is one within the competency of Congress to enact, the State
78 statute must give way. That does not apply here, if for no other reason than that not different, but the same, rules have been prescribed by both.

A case strongly relied on is *R. R. Co. v. Huson*, 95 U. S. 465. But that was a case wherein it was held that a statute of Missouri which, under the guise of a quarantine regulation, absolutely prohibited between the first day of March and the first day of November in each year, the driving or conveying of any Texas, Mexican, or Indian cattle into the State, whether diseased or not, is not a legitimate exercise of the police power of the State, but that it was clearly a regulation of interstate commerce which it was not competent for the legislature of Missouri to make. And the same is true of the Minnesota statute condemned in *Minnesota v. Barber*, 136 U. S. 313, which virtually prohibited the sale in Minnesota of meats for human food unless the animals were slaughtered in that State.

The following cases, we think, in principle will sustain the validity of our legislation: *Grimes v. Eddy*, 126 Mo. 168; *M. K. & T. R'y Co. v. Haber*, 56 Kan. 694; S. C. 169 U. S. 613. Speaking with reference to the Kansas statute similar to ours, the Supreme Court of the United States in the case last cited says that even if the subject-matter of such regulations be one that may be taken under the exclusive control of Congress and be reached by national legislation, any action taken by the State upon that subject that does not directly interfere with rights secured by the Constitution of the United States, or by some valid act of Congress, must be respected until Congress intervenes.

Applying this test to our statute, it is manifest that, even assuming that quarantine and inspection laws may be within the ex-
79 clusive province of Congress when it chooses to assert its authority, still there is no interference by our act with rights secured by the Constitution of the United States or by some valid act of Congress; that Congress itself has not assumed to itself the exclusive control, but has expressly invited the States to co-operate. *Kimmish v. Ball*, 129 U. S. 217; *Patapsco Guano Co. v. North Carolina*, 171 U. S. 345; Tiedeman's State and Federal Control of Persons and Property, vol. 2, 1042 *et seq.*

The questions involved here being such as entitle the plaintiff in error to be heard by the Supreme Court of the United States, we have not deemed it advisable further to prolong the discussion, or to consider at greater length its decisions upon analogous questions. The conclusion which we have reached we think is sound in principle and clearly deducible from the decisions of that august tribunal. In a petition for a writ of *habeas corpus* before Mr. Justice Hallett, United States district judge for the district of Colorado, wherein the plaintiff in error here sought to be discharged from imprisonment under the sentence imposed in this case, the learned judge denied the writ upon the ground that our statute was valid

and that the Federal and the State acts were merely supplemental quarantine or inspection laws, both of which might be enforced within the same territory, and that there must be a compliance with both of them.

Our law does not regulate interstate commerce in the sense of that term prohibited by the Federal Constitution. At most it only indirectly affects it. The equal privileges of the citizens of the several States and Territories are not infringed by it, and the inspection fee prescribed by the act is not in any sense an im-
80 post, tax, or duty, but merely covers the actual cost of an inspection, which is the usual and ordinary method adopted to protect the property of the citizens of the States.

Our conclusion is that the judgment is right, and it is accordingly affirmed.

Affirmed.

81 And thereupon and on, to wit, February 14th, A. D. 1902, the following motion for rehearing was filed in said court:

In the Supreme Court of the State of Colorado.

ED. H. REID, Plaintiff in Error, *vs.* THE PEOPLE OF THE STATE OF COLORADO, Defendants in Error.	No. 4431. Motion for Rehearing.

Comes now the above-named plaintiff in error, by Talbot, Denison & Wadley, his attorneys, and moves this honorable court to grant him a rehearing in this cause, and for grounds therefor, says: to wit:

First. The court erred in not deciding that the conviction of the plaintiff in error was illegal.

Second. The court erred in deciding that the statute of the State of Colorado, approved March 21, 1885, and under which plaintiff in error was prosecuted and convicted, is not repugnant to the provision of the Constitution of the United States, giving Congress power to regulate commerce among the States, to wit, article 1, section 8, subdivision 3, of the Constitution of the United States, as well as to the provision declaring that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States, to wit, article 4, section 2, of the Constitution of the United States.

82 Third. The Congress of the United States, having passed an act establishing a Bureau of Animal Industry, to wit, volume 1, 435, chapter 60, sections 3, 6, and 9, Supplement Revised Statutes of the United States, and said Bureau of Animal Industry, having promulgated its rules in pursuance of said act, in the regulation of the exportation from this country, and the importation into this country, and the transportation of domestic animals from one State into another, the court erred in not declaring the statute of the State of Colorado, approved March 21, 1885, under which this prose-

cution was had, to be null and void, as imposing unnecessary burdens and restrictions upon interstate commerce.

Fourth. The court erred in failing and refusing to reverse the judgment of the district court of the county of Arapahoe, and State of Colorado, and in not discharging plaintiff in error.

Respectfully submitted.

TALBOT, DENISON & WADLEY,
Attorneys for Plaintiff in Error.

Which said motion for rehearing was, on, to wit, February 17th, 1902, duly denied by the said the supreme court.

I, Horace G. Clark, clerk of the supreme court of the State of Colorado, do hereby certify, that the foregoing is a true copy of an original opinion of the supreme court of the State of Colorado, filed in the above-entitled cause on the 3d day of February, A. D. 1902, and of the order of the court denying said motion for rehearing, now remaining of record in my office.

Witness my hand and the seal of the court, affixed at my office in the city of Denver, this 28th day of February, A. D. 1902.

[SEAL OF COURT.] HORACE G. CLARK, *Clerk*,
By J. B. COOKE, *Deputy*.

83 Said motion for rehearing and ruling thereon being endorsed in words and figures as follows, to wit:

No. 4431. In the supreme court of the State of Colorado. Ed H. Reid, plaintiff in error, *vs.* The People of the State of Colorado, defendants in error. Motion for rehearing and ruling thereon. Filed in supreme court Feb. 28, 1902. Horace G. Clark, clerk.

84 In the Supreme Court of the State of Colorado.

ED. H. REID, Plaintiff in Error,
vs.
THE PEOPLE OF THE STATE OF COLORADO, Defendants in Error. } Certificate.

To the honorable the judges of the Supreme Court of the United States, Greeting:

This is to certify, that, in the above-entitled cause, judgment was rendered against the above-named plaintiff in error, Ed. H. Reid, on the 3d day of February, A. D. 1902, and in the hearing and determination of said cause there were involved Federal questions, to wit, a construction of the Constitution of the United States, and of the animal industry act of Congress, approved May 29th, 1884, and the rules and regulations thereunder, prescribed by the Secretary of the Department of Agriculture of the United States, and the constitutionality of the statute of the State of Colorado, approved March

21, 1885, and under which the plaintiff in error was prosecuted and convicted, and that said decision was against the said plaintiff in error and sustained the constitutionality of the said Colorado statute.

I. That said plaintiff in error claimed that the statute of the State of Colorado, approved March 21, 1885, and under which he was prosecuted and convicted, was repugnant to the provisions of the Constitution of the United States giving Congress power to
85 regulate commerce among the States, and declaring that the citizens of each State should be entitled to all the privileges and immunities of citizens in the several States, and in conflict with the act of Congress establishing a Bureau of Animal Industry, Supplement to the Revised Statutes of the United States, volume 1, page 435, chapter 60, sections 3, 6 and 9, and the rules and regulations promulgated in pursuance thereof, governing the exportation from this country, and the importation into this country, and the transportation of domestic animals from one State into another, and that the decision was against the contention of plaintiff in error, and that under the said decision of the said supreme court of the State of Colorado the contention of the plaintiff in error was denied.

Witness the Honorable John Campbell, chief justice of the supreme court of the State of Colorado, on February 28th, in the year of our Lord, 1902, and of the Independence of the United States, the one hundred and twenty-sixth, at Denver, in the State of Colorado.

JOHN CAMPBELL,
Chief Justice of the Supreme Court
of the State of Colorado.

86 [Endorsed:] No. 4431. In the supreme court of the State of Colorado. Ed. H. Reid, plaintiff in error, *vs.* The People of the State of Colorado, defendants in error. Certificate of chief justice that Federal questions are involved. Filed in supreme court, Feb. 28, 1902. Horace G. Clark, clerk.

87 *Certificate to Transcript of Record.*

UNITED STATES OF AMERICA, }
District of Colorado, State of Colorado, } *ss.*

I, Horace G. Clark, clerk of the supreme court of the State of Colorado, in the United States of America, do hereby certify, that the foregoing pages, numbered in folios from 1 to —, inclusive, contain a true and complete transcript of the record and proceedings had in said cause, in the case of Ed. H. Reid, plaintiff in error, *vs.* The People of the State of Colorado, defendants in error, No. 4431, as the same remain of record on file in my office.

In witness whereof, I have caused the seal of the said court to be

Seal Supreme Court, State of Colorado.

hereunto affixed, at the city of Denver, in the District and State of Colorado, this 28th day of February, in the year of our Lord, 1902, and of the Independence of the United States, the one hundred and twenty-sixth.

HORACE G. CLARK,
Clerk of the Supreme Court of the State of Colorado,
By J. B. COOKE, *Deputy.*

[Endorsed:] No. 4131. In the supreme court of the State of Colorado. Ed. H. Reid, plaintiff in error, *vs.* The People of the State of Colorado, defendants in error. Certificate to transcript of record. Filed in supreme court, Feb. 28, 1902. Horace G. Clark, clerk.

Endorsed on cover: File No. 18,445. Colorado supreme court. Term No. 592. Ed H. Reid, plaintiff in error, *vs.* The People of the State of Colorado. Filed March 11th, 1902.